

Philip Philliou

June 08, 2023

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 1:22-cv-22707

PAYCARGO FINANCE LP,

Plaintiff,

-vs-

ASPEN AMERICAN INSURANCE COMPANY,

Defendant,

BAY MARITIMES INC.,

Nominal Defendant.

/

One Northeast 2nd Avenue
Suite 200
Miami, Florida 33132

Thursday, June 8, 2023
10:05 A.M. to 12:38 P.M.

DEPOSITION OF
PHILIP PHILLIOU

Taken before Jasmine Mercedes, Court Reporter,
a Notary Public for the State of Florida at Large,
pursuant to Notice of Taking Deposition filed in the
above-styled cause.

1 MR. FANT: The Excel is going to be Exhibit 9.

2 (Thereupon, Defendant's Exhibit 9 was marked
3 for identification.)

4 BY MR. FANT:

5 Q. And is this a common accounting document for
6 PCF, something in this format?

7 A. No. We probably created it to help you-all
8 understand the transactions.

9 Q. And this would've been created from source
10 records in PCF's system?

11 A. Yeah. I mean, I think what we did was we
12 added up the -- the bounces, and that's what you see
13 here.

14 Q. Okay.

15 A. And then -- and then we deducted the money
16 that came in, and that's how we got to the total owed.

17 Q. So are these -- is this the total of bounces,
18 or is this the total that PCF were underpaid somehow?
19 Is this a total that PCF advanced for Bay Maritimes
20 under this credit agreement, or is this a total number
21 that was returned for insufficient funds?

22 A. I think it's the latter, insufficient funds.
23 And then we got money that came in that we applied
24 towards it.

25 Q. Okay. Do you know why it says "paid"? Is

1 that PCF paying, or is that Bay Maritimes' repay?

2 A. Paid, partially paid. I'd have to come back
3 to you on that one.

4 Q. Okay. And these invoices over here, are these
5 PCF's invoice numbers?

6 A. I'd have to check that too. Sorry.

7 Q. Okay. I don't think we had those. And if
8 they existed -- like, see, one of my questions here is,
9 if you look at the date of these transactions over here,
10 the ones that were asserted in the Notice of Claim --

11 A. Yep.

12 Q. -- start on February 23rd, '21. See that?

13 A. Yeah.

14 Q. And going back to Exhibit 8, they run down
15 through March 29th, 2021. See that there at the top?

16 A. Right.

17 Q. All right. So my question is, if the letter
18 in the claims notice was basically asserting and
19 documenting balance payments, as we'll call them, why do
20 they go all the way back to August of 2020?

21 A. Because those were paid.

22 Q. They were paid back by Bay Maritimes?

23 A. Presumably, yeah.

24 Q. Okay. So anything on this upper level that
25 was paid isn't outstanding from Bay Maritimes; is that

1 right?

2 A. I -- I think that's right, but let me -- let
3 me validate that.

4 Q. Well, we're here to get your testimony on your
5 damages, and I'm just asking how PCF came up with them.
6 I'm looking at this Excel sheet, and it's a little
7 confusing.

8 A. Yeah. So --

9 Q. Can you clarify it today or not?

10 A. Well, what I know is he had a total of
11 whatever that is, 287, in bounced transactions. We
12 received the 130, and the -- and that's how we got to
13 that total owed.

14 Q. So he was bouncing transactions back in August
15 of 2020?

16 A. I mean, I'd have to validate the date. I
17 mean, I think that's what this is saying, but I would
18 only know by looking at the transaction.

19 Q. But did you do that in preparation to testify
20 on PCF's alleged damages?

21 A. You know, like -- like I said, we -- we went
22 through this with Bay Maritimes, and Bay Maritimes
23 agreed with the amount owed.

24 Q. Did you review the damages documentation to
25 come in and testify about PCF's alleged damages?

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1 So we're at the bottom of the page, or second set of
2 numbers.

3 A. Yep.

4 Q. It starts with the TRC number on the left. I
5 don't know what that means. Maybe transaction record
6 something. And over on the right, it's got amount,
7 description. Amounts are set out in one column,
8 description next to it. All say, "incoming money
9 transfers." Do you see that?

10 A. Yep.

11 Q. And then next to that, for all but one of
12 those, the note says it was by wire. Based on the type,
13 slash, check number, description. It looks like that
14 first payment may have been via ACH.

15 And then there are a series -- one, two,
16 three, four -- four of them that say Growth Capital is
17 making these payments. See that?

18 A. Yeah. I'm not sure if that's what we meant by
19 that. We received wires, and on the wires, I believe it
20 said, you know, for the Growth Capital transactions,
21 like, the -- that's how to apply the money.

22 Q. Okay.

23 A. But again, I'd have to validate that. That --
24 I'd have to validate that.

25 Q. And what you're saying is you don't know

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1 today, sitting here today?

2 A. Yeah. I mean, I'm -- at this detail, you
3 know, typically it's the vendor is -- the vendor is
4 paying us back.

5 Q. The vendor is paying you back. You mean Bay
6 Maritimes is paying you back?

7 A. Bay Maritimes, yeah.

8 Q. Okay.

9 A. Again, this stuff happens in the system. It's
10 not like I'm looking at this at a transaction level.
11 All I care about is that we're getting paid back.

12 Q. Right. You don't care where the money comes
13 from, as long as you're getting paid back?

14 A. Yeah. I just need to know the money is being
15 paid back. So we'd have to investigate.

16 Q. Can someone else make a payment to PCF on
17 behalf of Bay Maritimes?

18 A. It's not typical. I -- I'd have to research
19 that.

20 Q. All right.

21 A. It's not typical that somebody's paying on
22 behalf of any of our customers.

23 Q. Does PCF have a document or some documentation
24 for these wire transfers showing where they were
25 initiated, the initiating party, all that typical type

1 information?

2 A. I -- I'd have to ask our accounting
3 department.

4 Q. Okay. We don't have them. I think it would
5 be -- it would be beneficial to have them. I believe we
6 requested them. So I'll follow up with your lawyers on
7 that.

8 A. Yeah.

9 Q. But the bottom line, today, is that you don't
10 know if Bay Maritimes made those wires or if Growth
11 Capital made those wires, but you believe it was Bay
12 Maritimes?

13 A. Yeah. I mean, honestly, I'm not sure I care
14 one way or another which party was paying me, as long as
15 I was getting paid for the Bay Maritimes transactions.

16 Q. Right. Do any of the shipping vendors in
17 PayCargo's system pay PCF on behalf of a user like Bay
18 Maritimes?

19 A. Again, just to be specific, they're paying
20 PayCargo back, who then pays us, is the way the system
21 works.

22 Q. Paying PayCargo back?

23 A. Yeah. So --

24 Q. PayCargo advanced the funds?

25 A. We advance the funds in the system through

1 accounting department.

2 Q. How would this document have been created
3 without access to PayCargo's wire records?

4 A. It wouldn't be. I mean, we work hand-in-
5 glove.

6 Q. Okay. The type, check number, description
7 file that we're looking at here, is that automatically
8 generated, or is somebody typing that in?

9 A. I'd have -- I'd have to check.

10 Q. Who would know?

11 A. Presumably, somebody in the accounting
12 department.

13 Q. Okay. How many folks are in your accounting
14 department?

15 A. It's -- it's PayCargo's accounting department,
16 and I'm not sure how many people are in there, how many
17 employees they have.

18 MR. FANT: All right. Go to what we received.

19 So this will be Exhibit 10.

20 (Thereupon, Defendant's Exhibit 10 was marked
21 for identification.)

22 BY MR. FANT:

23 Q. These are documents that Aspen received that
24 appear to be bills of lading from Hapag-Lloyd for this
25 specific transaction. It's got carrier reference